

**SUMMARY OF FINAL DECISIONS ISSUED BY
TRIAL AND APPEAL BOARD
August 23-27, 1999**

THE TRADEMARK

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-24	OPP (SJ)	103,606	Dage-MTI, Inc. v. Medical Technology & Innovations Inc.	Cissel Quinn Walters [Opinion "By the Board"]	2(d)	Opposition Sustained [motion for summary judgment granted]	"MTT" [monitors, television cameras]; "MTT" (in stylized lettering) [television cameras, television monitor units, and synchronizing generators for close circuit television apparatus]	"MTI PHOTOSCREENER" [camera for detecting ocular abnormalities in a patient]			No
8-24	OPP (SJ)	98,197	Daniel L. Kegan v. VideoGuide, Inc.	Simms Cissel Rogers [Opinion "By the Board"]	2(d)	Opposition Dismissed [motion for summary judgment granted]	"MACGUIDE" [magazines directed to the computer community]; "PCGUIDE," "CD-ROMGUIDE," "POWERGUIDE," and "OPENGUIDE" [all four marks for computer-oriented magazines on various media, including paper, floppy disk, and CD-ROM]	"VIDEOGUIDE" [video cassette recorder and cable box controllers]			NO
8-24	OPP	99,308	Allergan, Inc. v. Whit H. Smith	Hohein* Walters Wendel	2(d) [family of marks]	Opposition Sustained	"AQUA GLYCOLIC" [skin moisturizing lotion and non-medicated shampoo], "AQUA GLYDE" [skin cleanser], "AQUA LACTEN" (in stylized lettering) [hand lotion], and "AQUAMED" [skin lotion]	"AQUA" [liquid bath and toilet soap]			No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 23-27, 1999 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-24	EX	75/045,982	Burke, Inc.	Simms* Quinn Chapman	2(d) [consent agreement]	Refusal Reversed		"BURKE" (and design) [market research services]	"THE BURKE INSTITUTE" [providing classes and seminars in marketing research]	Leetzow	No
8-24	EX	75/049,228	Ziff-Davis Publishing Co.	Cissel* Hohein Hairston	2(e)(1)	Refusal Affirmed		"INTERNET COMPUTING" [publications, namely, magazines and newspapers and supplements thereto and sections thereof, and newsletters, journals, brochures, catalogues, directories, and pamphlets in the field of technology and subjects of general interest]		Krisp	No
8-24	OPP	100,989	Mobilogic, Inc. v. Netcore Technology, Inc.	Hanak Wendel Bucher*	2(d)	Opposition Sustained	"PAGERUNNER" [computer software to facilitate communication of paging messages between a sender and a receiver]	"PAGE RUNNER" [computer software to facilitate communication of paging messages between a sender and a receiver]			No
8-24	EX	75/022,018	PointCast Inc.	Simms Hairston Chapman*	2(e)(1)	Refusal Reversed		"SMARTSCREEN" [computer software and manuals, sold as a unit, for dynamically composing a script-based animation in which news headlines, stock information, and other content are combined with graphics and advertisements to form a presentation of useful information]		Vanston	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 23-27, 1999 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-24	EX	74/321,461	The George G. Glenner Alzheimer's Family Center, Inc.	Simms Cissel* Hairston	2(e)(1)	Refusal Affirmed		"ALZHEIMER'S FAMILY CENTER" [videotapes regarding the treatment and care of persons with organic brain disorders]		Bullock	No
8-24	OPP	106,653	Rocin Laboratories, Inc. v. Surgijet, Inc.	Simms Hairston Chapman*	2(d) [priority]	Opposition Dismissed	"LIPOTOME" [medical instruments, namely, tissue aspirators]	"LIPOTOME" [medical instruments, namely, tissue emulsifiers and aspirators]			No
8-25	CANC	25,184	Central Mfg. Co. and S Industries, Inc. v. The Esab Group, Inc. and Esab Automation, Inc.	Simms Cissel McLeod*	abandonment; fraud; 2(d); affirmative defense of estoppel by consent and release	Petition to Cancel Denied (respondent's motion for summary judgment, based on its affirmative defense, granted)	"STEALTH" [pool cues, pool tables, darts, billiard balls, cue cases, billiard gloves, tennis rackets, golf clubs, tennis balls, basketballs, baseballs, soccer balls, golf balls, cross bows, tennis racket strings, shuttle cocks, bicycles, motorcycles and boats]	"STEALTH" (in stylized lettering) [controlled mechanized cutting machine for metal products]			No
8-25	CANC	26,685	Yangtse River Co., Inc. v. Concept Housewares, Inc.	Cissel* Chapman Bottorff	fraud; ownership of the registered mark	Petition to Cancel Denied		"TRACK RACK" [pot racks and mounting hardware sold therewith]			No
8-25	EX	75/135,254	Access Plus Fashions Inc.	Cissel* Hairston Walters	2(d)	Refusal Affirmed		"CAROLINE V" (and design) [jewelry]	"OV" design [jewelry]	Turner	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 23-27, 1999 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-25	OPP	90,074	Lotus Development Corp. v. PenMetrics, Inc.	Cissel Hanak Wendel*	2(d)	Opposition Dismissed	"LOTUS NOTES" and "NOTES" [computer programs for use in information management, data and text processing, networking and electronic mail and instructional manuals sold as a unit]	"FIELDNOTES" [computer software in the field of geographic information systems and the instructional manuals sold therewith]			No
8-25	OPP	104,891	F.D.C. Wholesale Corp. v. La Cibeles, Inc.	Simms Hohein* Bottorff	2(d)	Opposition Sustained	"LOVE YOUR BABY" [skin lotion, baby oil, baby shampoo, baby wipes, petroleum jelly with baby fragrance and baby powder, baby nail clips]	"LOVE MY BABY" (and design) [body soaps, perfume, toilet water, cologne, talcum powder, cream body lotions, liquid body soap, bar hand soap, perfume splashes, eau-de-toilette, and dusting powder]			No
8-25	OPP	101,650	Nabisco, Inc. v. Sathers Inc.	Seeherman* Hanak Hairston	2(e)(1); genericness; whether applicant's mark has acquired distinctiveness under Section 2(f)	Opposition Dismissed (based on findings of non-genericness and acquired distinctiveness of applicant's mark)		"TANGY FRUITS" [candy]			No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 23-27, 1999 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-26	EX	75/141,622	P. Cerlis Corp.	Cissel Hanak* Walters	2(e)(4)	Refusal Affirmed		"F. ROQUE" [cigars]		Michos	No
8-26	EX	75/130,249	Freedom Magazines, Inc.	Hanak Chapman Bucher*	2(e)(1); whether applicant's identification of goods is acceptable	Refusal Affirmed (on 2(e)(1) ground only)		"SMALL OFFICE HOME OFFICE COMPUTING & COMMUNICATIONS" [general interest magazines regarding technology needs for business operators]		Benzmiller	No
8-26	EX	75/045,893	Super Coffeemix Mfg. Ltd.	Hairston Walters Wendel*	2(e)(1)	Refusal Affirmed		"COFFEEMIX" [coffee preparations, namely, instant coffee sachets, coffee based beverages, and coffee]		Gray	No
8-26	EX	75/212,508	Dorn Technology Group, Inc.	Hanak* Hairston Bottorff	2(e)(1)	Refusal Affirmed		"UNIVERSAL RISK SYSTEMS" [insurance risk management services]		Thompson	No
8-26	EX	75/095,244	Nuova Vamatex S.p.A.	Seeherman Hanak* Walters	2(d)	Refusal Affirmed		"VAMATEX" [weaving looms and component parts thereof]	"FAMATEX" (and design) [machines for textile finishing]	Masiello	No
8-26	EX	75/205,114	Kaufel Group Ltd.	Cissel* Wendel Bucher	2(d)	Refusal Affirmed		"POWERLITE" [electrical equipment, namely, street, outdoor and indoor high intensity discharge lighting fixtures sold individually and in installations including metal poles and brackets for such fixtures, outdoor lighting control relays, switch gear for voltages 600 volts or less and power cable accessories sold as a unit]	"POWER-LITE" [electric lamps]	Wood-King	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 23-27, 1999 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-26	EX	75/061,885	The Brita Products Co.	Hanak Chapman* Wendel	2(e)(1); whether applicant's mark has acquired distinctive-ness under Sec. 2(f)	Refusal Reversed (on basis of acquired distinctive-ness under Sec. 2(f)		"MAKES TAP WATER TASTE GREAT" [portable water dispensers]		Clarke	No
8-27	OPP OPP	103,125 103,128	Bellini Waren-vertriebs-gesellschaft mbH v. E. James Monson	Simms* Seeherman Walters	2(d)	Opposition Dismissed (in both cases)	"CLOSED" [men's and women's sportswear]	"SPORTS CLOSET" and "SPORTSMAN'S CLOSET" [both marks for sportswear, namely, shirts, pants, jackets, shorts and caps]			No
8-27	EX	75/167,440	Above & Beyond	Simms Hohein* Walters	2(d)	Refusal Reversed		"ABOVE & BEYOND" [travel agency and tour services, namely, making reservations and bookings for transportation and arranging transportation for groups for adventure and ecology tours for corporate, organization and consumer travelers and tourists]	"ABOVE & BEYOND" (in stylized lettering) [educational services, namely, conducting a training program for travel agents]	Vanston	No
8-27	EX	74/645,035	Solutions NOW	Hanak* Hohein Wendel	whether applicant's mark identifies the services recited in its application	Refusal Reversed		"UNBUNDLING" [technical consultation and research in the fields of engineering and product development]		Lykos	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

August 23-27, 1999 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-27	EX	74/631,589	Greenleaf, Inc.	Cissel Hairston* Walters	de jure functionality; whether applicant's product configuration has become distinctive under Section 2(f)	Refusal Affirmed (on both grounds)		configuration of the flatpack envelope that serves as a container for applicant's goods [air fresheners]		Sapp	No
8-27	EX	74/700,586	LeGrand Bennett and Anne Bennett	Simms* Hohein Hairston	de jure functionality; whether applicant's product configuration is inherently distinctive	Refusal Affirmed (but only on ground that applicant's product configuration is not inherently distinctive)		the brim configuration of a sun visor or cap [visors and caps]		George	No
8-27	EX	75/108,390	Dennis Bearden	Cissel Hohein Wendel*	2(d)	Refusal Affirmed		"CENTURY A/C SUPPLY" (and design) [wholesale distributorships featuring air conditioning supplies for contractors and for multi-family housing]	"CENTURY" [electronic air cleaners; air conditioners; gas, oil and electric furnaces; heat pumps, blowers, coils, coil cabinets, electric duct heaters, humidifiers, air handlers and condensing units]	Front	No

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
August 23-27, 1999 (continued)

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
8-27	EX	75/138,629	Field Fresh Foods, Inc.	Rice* Walters Bucher	2(d); 2(e)(1)	Refusal Affirmed (on both grounds)		"FIELD FRESH FARMS" [pre-cut organic vegetables]	"FIELD FRESH" [fresh pineapple]	Richard	No
8-27	EX	74/682,845	Log Cabin Homes, Ltd.	Simms Hanak* Hohein	genericness; whether applicant's mark has become distinctive of its services under Section 2(f)	Refusal Affirmed (on both grounds)		"LOG CABIN HOMES" [architectural design of buildings, especially houses, for others, and retail outlets featuring kits for constructing buildings, especially houses]		First	Yes

(1) EX=Ex Parte Appeal; OPP=Opposition; CANC=Cancellation; CU=Concurrent Use; (SJ)=Summary Judgment; (MD)=Motion to Dismiss; (MR)=Motion to Reopen; (R)=Request for Reconsideration

(2) *=Opinion Writer; (D)=Dissenting Panel Member